

**FEBRUARY 28, 2008**

**MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

**08 C 1215**

INTELLECT WIRELESS, INC.,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	JURY DEMAND
	)	
T-MOBILE USA, INC., UNITED	)	
STATES CELLULAR CORP.,	)	
VIRGIN MOBILE USA, INC., HELIO,	)	
INC.	)	
	)	
Defendants.	)	

**JUDGE GOTTSCHALL  
MAGISTRATE JUDGE COX**

**COMPLAINT**

Plaintiff, Intellect Wireless, Inc. ("Intellect Wireless") complains of defendants T-Mobile USA, Inc. ("T-Mobile") United States Cellular Corp. ("US Cellular"), Virgin Mobile USA, Inc. ("Virgin") and Helio, Inc. ("Helio") (collectively "Defendants") as follows:

**NATURE OF THE SUIT**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

**PARTIES**

2. Intellect Wireless is a Texas corporation with offices in Fort Worth, Texas and Reston, Virginia. Intellect Wireless is in the business of, among other things, commercializing its inventions relating to wireless image messaging.

3. Daniel Henderson is the founder of Intellect Wireless, and the sole inventor of the patents-in-suit. Mr. Henderson has been awarded 25 United

States patents with several more pending that relate to picture / video messaging in wireless devices such as PDA's, portable computers and cellular phones. Mr. Henderson's prototype for a wireless picturephone device was received as part of the permanent collection of the Smithsonian Institution in the National Museum of American History. The Honorable Senator Gordon H. Smith, (OR), declared that Mr. Henderson has "truly blazed new trails in the fields of wireless technology and digital convergence" and called him a "true visionary."

4. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,257,210 entitled "Picture Phone with Caller ID" which issued on August 14, 2007 ("the '210 Patent").

5. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,305,076 entitled "Method and Apparatus for Improved Paging Receiver and System" which issued on December 4, 2007 ("the '076 Patent").

6. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,266,186 entitled "Method and Apparatus for Improved Paging Receiver and System" which issued on September 4, 2007 ("the '186 Patent").

7. T-Mobile is a Delaware corporation with corporate headquarters at 12920 SE 38<sup>th</sup> Street, Bellevue, Washington 98006.

8. T-Mobile makes, uses, sells, offers for sale and/or imports cellular telephone services that receive messages including non-facsimile pictures and caller ID information.

9. US Cellular is a Delaware corporation with corporate headquarters at 8410 West Bryn Mawr Avenue, Suite 700, Chicago, Illinois 60631.

10. US Cellular makes, uses, sells, offers for sale and/or imports wireless communications services that receive messages including non-facsimile pictures and caller ID information.

11. Virgin is a Delaware corporation with corporate headquarters at 10 Independence Blvd., Warren, New Jersey 07059.

12. Virgin makes, uses, sells, offers for sale and/or imports wireless communications services that receive messages including non-facsimile pictures and caller ID information.

13. Helio is a Delaware corporation with corporate headquarters at 10960 Wilshire Blvd., Suite 700, Los Angeles, California 90024.

14. Helio makes, uses, sells, offers for sale and/or imports wireless communications services that receive messages including non-facsimile pictures and caller ID information.

### **JURISDICTION AND VENUE**

15. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

16. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). T-Mobile, US Cellular, Virgin, and Helio transact business in this district, at least by offering to sell or selling infringing cellular telephones and services to Illinois customers in this judicial district and through Internet websites that are designed to reach Illinois customers and are, in fact, used by customers

in this judicial district. T-Mobile, US Cellular, Virgin and Helio do business and have committed acts of infringement in this judicial district. T-Mobile owns retail stores in this judicial district including, but not limited to, a retail location at 5 Woodfield Mall, D-308, Schaumburg, IL 60173. US Cellular has its headquarters in this judicial district and transacts substantial business here. Helio owns retail stores in this judicial district including, but not limited to, a retail location at 5 Woodfield Shopping Center, Schaumburg, IL 60173.

### **PATENT INFRINGEMENT**

17. T-Mobile has directly and/or indirectly infringed at least one claim of the '210 patent, the '076 patent, and the '186 patent by making, using, selling and/or offering to sell wireless communication plans, packages and/or services that include, or optionally include, Caller ID, picture and video messaging and/or Multimedia Messaging Service.

18. T-Mobile has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, and the '186 patent in violation of 35 U.S.C. § 271 through, among other activities, by providing plans, packages and/or services that include, or optionally include caller ID and video messaging and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and video messages service and/or Multimedia Messaging Service through its websites at [www.t-mobile.com](http://www.t-mobile.com) and [support.t-mobile.com](http://support.t-mobile.com).

19. T-Mobile's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to recover

damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

20. US Cellular has directly and/or indirectly infringed one or more claims of the '210 patent, the '076 patent, and the '186 patent by making, using, selling and offering to sell wireless communication plans, packages and/or services that include, or optionally include, Caller ID, picture and/or Multimedia Messaging Service.

21. US Cellular has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, and the '186 patent in violation of 35 U.S.C. § 271 through, among other activities, by providing plans, packages and/or services that include, or optionally include caller ID and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and/or Multimedia Messaging Service through its websites at <http://easyedge.uscc.com>.

22. US Cellular's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

23. Virgin has directly and/or indirectly infringed one or more claims of the '210 patent, the '076 patent, and the '186 patent by making, using, selling and offering to sell wireless communication plans, packages and/or services that include, or optionally include, Caller ID, picture messaging and/or Multimedia Messaging Service.

24. Virgin has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, and the '186 patent in violation of 35 U.S.C. § 271 through, among other activities, by providing plans, packages and/or services that include, or optionally include caller ID and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and/or Multimedia Messaging Service through its websites at <http://www.virginmobileusa.com> and <http://web.virginmobileusa.com>.

25. Virgin's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

26. Helio has directly and/or indirectly infringed one or more claims of the '210 patent, the '076 patent, and the '186 patent by making, using, selling and offering to sell wireless communication plans, packages and/or services that include, or optionally include, Caller ID, picture and video messaging and/or Multimedia Messaging Service.

27. Helio has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, and the '186 patent in violation of 35 U.S.C. § 271 through, among other activities, by providing plans, packages and/or services that include, or optionally include caller ID and video messaging and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and

video messages service and/or Multimedia Messaging Service through its websites at <http://www.helio.com> and <http://downloads.helio.com>.

28. Helio's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff, Intellect Wireless, Inc., respectfully requests this Court enter judgment against T-Mobile USA, Inc., United States Cellular Corp., Virgin Mobile USA, Inc., Helio, Inc. and against their subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- A. The entry of judgment in favor of Intellect Wireless;
- B. An award of damages adequate to compensate Intellect Wireless for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to Intellect Wireless of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement of infringement and/or contributory infringement of the patents-in-suit; and,
- E. Such other relief that Intellect Wireless is entitled to under law and any other relief that this Court or a jury may deem just and proper.

**JURY DEMAND**

Intellect Wireless demands a trial by jury on all issues presented in this complaint.

INTELLECT WIRELESS INC.

/s/ Paul K. Vickrey

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